



NEWS RELEASE

HOWARD COUNTY COUNCIL – DISTRICT ONE

FOR IMMEDIATE RELEASE:

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County Council to Vote on Override of County Executive's Veto of CB78-2021 During Next Legislative Session: Monday, January 3, 2022

Ellicott City, MD (December 30, 2021) – During the County Council's last legislative session on December 6, 2021, four of its five members voted to protect more "Big Trees" from new development by lowering **one** measure of those eligible for highest-priority conservation, from thirty-inches' diameter to twenty-four. CB78-2021's veto-proof majority included Council Chair Dr. Opel Jones (D2), Vice Chair Christiana Rigby (D3), Councilwoman Deb Jung (D4) and me, bill sponsor Councilwoman Liz Walsh (D1). I earnestly thank my colleagues for their votes in support of stronger forest conservation in Howard County.

On December 14, 2021, surprisingly, County Executive Calvin Ball vetoed the bill.

CB78-2021's passage was the culmination of nearly two years' effort by my District 1 office. In January 2020, at our urging, the County Department of Planning and Zoning confirmed and cited illegal tree clearing off College Avenue in the hills above old Ellicott City, but that seeming victory was short-lived: the resulting penalty assessed the property's developer was hardly disincentive against his and others' more and worse forest conservation violations. So D1 resolved to find a legislative remedy. We met and shared possible strategies with the Department of Planning and Zoning and another of the Executive's reports, the Office of Community Sustainability. Early legislative drafts were shared among them and with Council colleagues. Finally, by June 2021, we had finalized a purposeful, extensively researched and long scrutinized proposal. This [July 15, 2021 press release](#) described that legislative effort—then filed as [CB56-2021](#). Constituents from throughout the County's five council districts, and groups like Audubon Society of Central Maryland, Clean Water Action Maryland, Howard County Bird Club, Howard County Citizens' Association, Howard County Sierra Club, Indivisible Howard County, Maryland Conservation Council, Maryland League of Conservation Voters, Maryland Ornithological Society, Patapsco Heritage Greenway, Preservation Maryland, Progressive Democrats of Howard County, Safe Skies Maryland, Savage Community Association, The People's Voice and Transition Howard County, near unanimously supported the legislation (the Maryland Building Industry Association testified against). Notably, the [Office of the County Auditor, Auditor's Analysis for CB56-2021](#) then reported the County's assessment of potential costs to the Department of Planning and Zoning in executing the diameter change proposed: "The Director also said that by reducing the threshold requiring tree retention from a 30-inch diameter at breast height (DBH) to a 24-inch DBH, development may become more difficult, possibly resulting in more requests for variances to remove specimen trees. This would again require more DPZ staff time to review these variance requests."

CB56-2021 failed on a procedural, and then a substantive, vote during the Council's September 8, 2021 legislative session, the same evening that an alternative forest conservation bill sponsored by the Executive himself was introduced. That bill, [CB64-2021](#), proposed an enforcement mechanism like what D1 had been searching for—a five-year prohibition on development of land unlawfully cleared, instead of the five-year "look-back" we had landed on—but added an entirely new regulatory procedure whereby the Department of Planning and Zoning was to consider applications to cut or clear nearly every thirty-inch-diameter-or-greater tree on any acre-or-larger residential lot in the County, or on any non-residential lot, whether in or contemplated for development, or not. The following month, we introduced an identical version of our earlier forest conservation bill, this time as [CB78-2021](#).

Seizing on the best parts of the enforcement mechanisms proposed in both then-pending tree bills, CB56/CB78 and CB64—but discarding D1’s expansion of what trees particularly might be protected, and the Executive’s imposition of a pre-approval process applicable to large trees throughout the County—District 5’s Councilman David Yungmann proposed a third forest conservation bill, [CB89-2021](#), also in October 2021. Although I was not able to persuade Mr. Yungmann to support during our last December vote what singular protection remained as part of my amended-down CB78—the six-inch diameter change—I am truly thankful for his insight and initiative in crafting what survived and in part improved upon my original proposal, as CB89. That bill passed 5-0 on December 6, 2021 and is not the subject of any follow-on Executive veto.

In his [December 14, 2021 letter announcing the veto of CB78-2021](#), County Executive Ball sets forth three reasons:

1. First, the Executive laments that the twenty-four-inch measure proposed is “arbitrary.” Perhaps, to the extent that this forest conservation bill incrementally improves upon the State-mandated thirty-inch minimum, which is itself arbitrary. And despite what’s said in the veto letter, there’s good precedent for exceeding that arbitrary minimum both here and in a neighboring jurisdiction: already in this County’s two historic districts—historic [Ellicott City](#) and [Lawyers Hill](#) in ElkrIDGE — any tree twelve inches or greater in diameter is protected; and already in [Montgomery County](#), trees twenty-four inches or greater are deemed “significant” and so deserving of a “tree save plan.” More compelling, though—and as we spelled out at the introduction of this particular legislative change in July 2021—is that countless trees twenty-four inches in diameter, and smaller even, already should be protected pursuant to current State and County mandates, **but they never, ever are**. Any dogwood tree, for example, eighteen inches’ diameter or greater already is deemed highest-priority conservation, but you will not find one identified on any forest delineation plan submitted to the County’s Department of Planning and Zoning, or any waiver request to fell them. That’s because in applying for and considering site development plans, the submitting developers and the approving County read out the second part of a [two-part State minimum](#): what must be protected are both (i) trees of a certain prescribed diameter (whether thirty inches or twenty-four) **and** (ii) those with diameters at least 75% of the State Champion Tree. Howard County’s published [Maryland Champion Trees, March 2020](#) lists all kinds of trees that already are eligible for forest conservation protection at diameter measures far less than twenty-four inches.
2. A second stated reason for the Executive’s veto of this forest conservation bill is that a twenty-four-inch measure does not distinguish among native, non-native or invasive trees. We do not disagree, but neither does the current thirty-inch measure. Rather, that kind of distinction is addressed elsewhere in the County Code (as recently even as a result of the Executive’s own [CB62-2019](#), which repealed and reenacted the Forest Conservation of Howard County) or by more detailed regulation, which as the veto letter itself mentions, includes the County’s 180-page [Forest Conservation Manual](#).
3. Last, the Executive alleges that a twenty-four-inch measure will likely increase Department of Planning and Zoning staff time “by at least 50% for each plan and request.” Besides such a claim being at odds with what the Director of that Department reported directly to the Office of the County Auditor as the legislation was pending, **so long as the law is actually adhered to, there would be no additional staff requirement at all**. The same number of sites presumably would be visited, the same number of thirty-inch or greater trees would be there—targeted or not for removal, and so would the same number of additional trees deserving protection pursuant to current State and County law because their diameter is 75% or greater of a State Champion Tree. The only additional staff time would result, as the Director described earlier this year, from an incremental increase in additional waivers specific to some subset of trees between twenty-four and thirty inches in diameter, no more. Compare that to the new tree-cutting application/approval process proposed by the Executive in his alternative CB64, and CB78 looks like a downright bargain.

All to say, we see no valid reason for this veto to have issued at all after these nearly two years of effort and attempted collaboration — at least not one aimed in conserving this County’s resources, wooded or otherwise.

The Council’s vote to override the County Executive’s veto will be held this Monday, January 3, 2022 during the Council’s next legislative session, which begins at 7pm. Please, if you support this forest conservation bill — as passed – email the entire Council before then, telling us so: CouncilMail@HowardCountyMD.gov. It’s as easy as:

“Please override the County Executive’s veto of Council Bill 78-2021.”

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